



**REVIEW OF DEPARTMENT OF TRANSPORTATION'S
EXCESS AND FUTURE RIGHT-OF-WAY PROPERTY**

**From The Office Of State Auditor
Claire McCaskill**

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PERFORMANCE AUDIT



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State Auditor Of Missouri
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Transportation officials lack accurate and reliable records of excess property and property being held for future road and bridge projects

Department of Transportation (MoDOT) officials have spent about \$630 million over the past 10 years buying land for road and bridge projects (known as right-of-way property). In all, they estimate that MoDOT owns almost 400,000 acres of land for right-of-way purposes. Absent of reliable data, they estimate the lands' value at \$1.9 billion for fiscal year 2003. This report documents the records and procedures over land owned by MoDOT including both excess and future right-of-way property. Excess property is surplus land no longer needed for roads, and future property is land held for road projects MoDOT intends to build. The following highlights the findings:

No overall right-of-way property inventory exists

MoDOT has no comprehensive records of all right-of-way property owned by the state. They prepared their most recent \$1.9 billion estimate annually for financial reporting purposes using estimated acreage owned (which includes documented property acquisitions since 2001) and the average acreage acquisition price. However, department officials said this estimate does not account for all the land and no current department system can individually or collectively document all owned property. In April 2004, department officials plan to develop a comprehensive property record system. (See page 3)

Current excess property database is unreliable, incomplete

Auditors found the database tracking excess right-of-way property, which is land no longer needed for roads and available for sale, is unreliable. This database showed the department owned 1,400 acres valued at \$10 million as of January 2004. However, department officials said this is not a complete list of all excess property, partly because personnel knowledgeable of past land purchases have left the department. In many cases, land is not identified as excess until someone is interested in buying it. The database also over- and understated land values. For example, auditors found the value of 8 parcels overstated by \$1.4 million. Some parcels in the database had no value listed at all. (See page 3)

Records of property for future road projects also deficient

Although department officials have started to develop records of future right-of-way property in September 2003, only limited progress had been made as of March 2004. Prior to September 2003, department officials had made no effort to account for all future

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right-of-way property, but simply kept records in various project files. The preliminary information they started gathering in September 2003 from the 10 transportation districts shows approximately 7,000 acres of future right-of-way property involving 130 projects. However, this information was inconsistent and did not include basic facts such as property value, initial cost, or acquisition date. In some cases, record-gathering efforts only involved asking various district personnel if they knew of any existing future right-of-way property. Auditors' limited review of this January 2004 preliminary list found 38 acres of future right-of-way property missing from this list. (See page 4)

Some future right-of-way property held for decades

Auditors found the department has owned 6 of 10 future right-of-way properties tested for 20 to 40 years. MoDOT officials said their annual review of the state's transportation plan (STIP) evaluates the continued need for right-of-way property. However, auditors found this evaluation may not be adequate. (See page 6)

More efforts needed to sell excess property

Over the last four fiscal years, MoDOT sold \$1.1 million annually in excess right-of-way property. However, further efforts to sell excess properties are needed. MoDOT officials indicated that sales of excess right-of-way properties are typically initiated by private individuals. The identification and marketing of excess properties will provide revenue and dispose of no longer needed properties. As of January 2004, MoDOT had already identified at least \$10 million in excess property and said this total is incomplete. (See page 6)

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ABBREVIATIONS

MoDOT	Missouri Department of Transportation
ROW	Right-of-way
RSMo	Revised Statutes of Missouri



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MoDOT estimates it owns \$1.9 billion in right-of-way property for financial statement purposes, and has spent over \$600 million on right-of-way property during the past 10 years. This interim report is the first of two reports on the Missouri Department of Transportation's (MoDOT) management of right-of way property and evaluates (1) right-of-way property records, and (2) procedures for identifying unneeded property on completed or future projects. The second report, which will be issued later, will address other issues related to MoDOT's procurement and management of right-of-way property.

MoDOT does not maintain a comprehensive record of all right-of-way property it owns. This includes excess right-of-way property on completed projects and right-of-way property intended for use on future projects. This situation has occurred because MoDOT does not have a database of all right-of-way property, nor has it developed adequate procedures to identify and periodically evaluate property which may no longer be needed on completed or future projects. MoDOT also could more actively market excess right-of-way properties it has identified. We have included recommendations to improve the management and oversight of right-of-way property.

We conducted our work in accordance with applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such tests of the procedures and records as were considered appropriate under the circumstances.

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RESULTS AND RECOMMENDATIONS

Improvements Needed In the Management and Oversight of Right-of-Way Property

Improvements are needed in the management and oversight of right-of-way (ROW) property because the Missouri Department of Transportation (MoDOT) has not documented all ROW property it owns or does not need. This includes excess property on completed projects and property intended to be used on future projects. This situation has occurred because MoDOT has not developed a comprehensive database of all ROW property owned, nor developed adequate procedures to identify and periodically evaluate property which may no longer be needed on completed or future projects. MoDOT also could more actively market excess ROW properties that it has identified. As a result, MoDOT may be retaining ownership and control of potentially valuable tracts of land no longer needed for projects.

Background

MoDOT has spent approximately \$630 million for ROW property over the past 10 years. ROW property represents property acquired by MoDOT needed to develop highway and/or bridge projects. MoDOT Controller's personnel value ROW property at an estimated \$1.9 billion for fiscal year 2003, and used that estimate for financial statement purposes. MoDOT has not used all ROW property it has acquired, and unused ROW can be classified as either excess or future ROW. Excess property is not needed and can be disposed of by MoDOT.

Excess ROW property represents real estate which is surplus to current and future transportation needs and is generally available for sale or disposal. Excess ROW property usually results when (1) only a portion of a property is needed for a road project, (2) the original project design is changed and some property acquired is no longer needed, or (3) a new road was built and all or a portion of the old road bed is abandoned.

Future ROW represents real estate that has been acquired for highway projects that have not been constructed, are not programmed for construction during the current five-year transportation improvement plan, and are being held for future use when funds are available. According to MoDOT officials, most of this property is acquired for projects with the intent to build additional lanes, interchanges, or outer roads in the future.

Methodology

To determine whether MoDOT's ROW property records were reliable and complete, and whether procedures for identifying unneeded property were adequate, we reviewed available ROW Division and district ROW property records. In addition, we determined whether selected properties were accurately recorded on excess and preliminary future ROW records.

To evaluate procedures for identifying unneeded property, we reviewed division and district procedures for maintaining the records, including procedures for identifying and recording excess and future ROW properties, and interviewed responsible officials. We also visited district offices located in Jefferson City, St. Louis, and Springfield. We contacted the Arizona,

California and Colorado transportation departments to compare MoDOT's procedures over ROW property to those of other states.

We obtained comments on a draft of this report during a meeting with responsible officials on March 25, 2004, and in a letter dated April 2, 2004. We incorporated their comments as appropriate. We conducted our work between November 2003 and March 2004.

MoDOT lacks a comprehensive inventory of ROW property

MoDOT does not have a comprehensive record of all ROW property it owns. The Controller's office estimates MoDOT owns \$1.9 billion of ROW property. However, according to a MoDOT official, not all future ROW property is included in this estimate. MoDOT officials told us they prepare this estimate for financial statement use because they do not have comprehensive property records.¹ MoDOT officials told us they update the estimated value each year as newly completed project results are compiled. Although MoDOT does have some systems for tracking certain types of ROW property, none of these systems, individually or collectively, account for all ROW property owned by the department or contain reliable data.² According to a division official, MoDOT plans to begin developing a comprehensive record or database, of all ROW property in April 2004.

Records pertaining to excess property on completed projects are incomplete

We found MoDOT's excess property database to be incomplete and unreliable. According to this database, MoDOT owned approximately 1,400 acres of excess ROW property valued at approximately \$10 million as of January 2004. However, officials and personnel from the division and two districts told us despite district efforts in 1997 to identify excess ROW property, it is likely additional parcels of excess ROW property exist which have not yet been identified. District officials told us they cannot identify all excess ROW property because they do not have complete records, and knowledgeable personnel involved in ROW acquisitions years ago are no longer with the department.

According to division and district officials, property is often not identified and classified as excess until a prospective buyer inquires about the property. We confirmed these officials' statements when we tested 26 properties³ which MoDOT sold, traded, or otherwise transferred to private individuals or entities during the period July 1, 1999 to June 30, 2003. Of 26 selected disposed properties, at least half of the properties, with sales prices ranging from \$1,925 to \$225,000, were not identified as excess until a request from a prospective buyer had been received. (See page 6 for additional information.)

¹ MoDOT computed this estimate based on estimated acreage, location (county and urban/rural) and estimated average acquisition cost for existing roads on the state highway system. As of June 30, 2003, MoDOT estimated it owns 399,065 acres of ROW property.

² The Colorado Department of Transportation maintains an electronic database of all ROW property it owns.

³ We judgmentally selected 26 properties from property disposals per MoDOT's excess property database based on property value, sales price, and size. The value of these properties per MoDOT's database, when available, ranged from \$1,925 to \$261,500.

In addition, our initial review of the excess property database records disclosed numerous inaccuracies either overstating or understating the total value of excess property owned. For example, we found records related to eight parcels on the system had been overstated by approximately \$1.4 million. Seven of those records should not have been on the system because they were either duplicate entries or were incorrectly classified as excess. Also, the excess ROW database did not contain a value for some parcels, causing the total value of excess ROW properties to be understated. In commenting on a draft of this report, division officials indicated one ROW property which did not have a value recorded on the system was actually future ROW and should not have been included on the excess ROW database. District officials had estimated this property had a value between \$136,000 and \$1 million.

Records pertaining to property acquired for future projects are also incomplete

As of March 1, 2004, MoDOT did not have a complete and adequate record of future ROW property. During fiscal year 2004, MoDOT initiated efforts to prepare such a record; however, only limited progress has been made in developing adequate records.

In September 2003, division officials requested districts to prepare and submit listings of future ROW property to the division to be compiled into a department-wide record. Prior to that time frame, the department had made no comprehensive effort to identify and account for all ROW property acquired for future use. The only records were contained in various project files and plans.

As of January 2004, division personnel had received future ROW listings from the department's 10 district offices. Those listings identified approximately 130 projects, involving approximately 7,000 acres, where ROW property had been acquired for future projects. The listings did not include the cost or value of the property identified on the listings, nor the dates the properties were acquired. According to district officials, the division did not provide detailed instructions or guidelines to the districts when requesting the future ROW data. In addition, as of March 1, 2004, division officials had not thoroughly reviewed the future ROW information provided by the districts; however, they stated the information is likely inaccurate and incomplete.

Based on our discussions with ROW officials in three district offices, none of these districts' procedures were adequate to ensure all ROW property acquired for future use had been identified. Officials at all three districts told us their procedures for developing the listings were limited to asking district personnel of their knowledge of existing future ROW, rather than performing a detailed review of district records. An official from one district told us they only listed future ROW relating to projects included in its long range plan.⁴ An official in another district told us they submitted a listing which had been prepared in 1999; however, this listing was not reviewed for accuracy or updated with current information.

⁴ Legacy 2025: The Transportation Plan for the Gateway Region, a 20-year plan coordinated by the East-West Gateway Coordinating Council.

Our limited review of future ROW property identified 38 acres of property acquired for future use, relating to 4 projects, which had not been included on MoDOT's preliminary records.

MoDOT lacks adequate procedures for evaluating ROW properties as excess on completed and future projects

Department policy states ROW remnants are to be evaluated as possible excess property; however, controls have not been established to ensure proper evaluations are conducted. According to division officials, projects are generally reviewed for excess property upon project completion,⁵ and district officials at the three districts visited told us they currently follow this policy. Although the policy indicates both district ROW and design officials are to be involved in the evaluations and that any excess property is to be reported to the ROW division; the policy does not: 1) clearly indicate when the evaluations should be conducted, 2) provide instructions or guidelines in conducting the evaluations, or 3) require the evaluations be documented. In addition, none of the three districts visited had established procedures regarding excess property evaluations, nor were excess property evaluations documented in those districts. As a result, there is no assurance the evaluations have been performed, nor that adequate procedures were used to identify and report all unneeded property as excess.

MoDOT also has not established procedures requiring districts to periodically evaluate the need to continue owning ROW property acquired for use on future projects. In commenting on a draft of this report, MoDOT's Director of Project Development said future ROW property is evaluated during the annual five-year plan development process. However, district officials at three districts we visited told us that all future ROW property is not periodically evaluated for continued need. Officials at one of the districts visited told us some future ROW property is periodically evaluated for continued need, but documentation of these evaluations has not been maintained.

In addition, since projects are not reviewed for excess ROW until completion, future ROW property is not reviewed until a project has been completed. For example, MoDOT acquired a parcel of ROW property totaling approximately 36 acres in 1996 for a future road project in Taney and Stone counties. Of the 36 acres acquired, MoDOT paid about \$329,000 for approximately 27 acres which were acquired because the acquisition left the property owners landlocked. The phase of the project for which this parcel was acquired will not be constructed within the next five years due to lack of funding, and MoDOT personnel did not know when construction might occur. Although district personnel told us possible disposal of the unneeded 27 acres had been discussed, because MoDOT's current procedure is to wait until project construction is completed, this unneeded property will not be evaluated for classification as excess property and made available for disposal until the project has been constructed.

We believe sound business practices dictate that MoDOT establish procedures to periodically evaluate ROW property to determine whether it should be classified as excess. The Colorado and California transportation departments require all ROW property be evaluated annually to

⁵Once identified, this property is to be placed in the excess property inventory. (See page 3 for discussion of incomplete records.)

determine the need for such property, and to classify any property that is not currently needed or will be needed in the foreseeable future as excess ROW.

Some future ROW property held for extended time periods

Although MoDOT has recently developed a preliminary listing of future ROW properties, information regarding when these properties were acquired has not been determined. As a result, MoDOT has not identified those future ROW properties it has owned for many years or adequately reevaluated the future need of those properties.

Our review of 10 projects⁶ involving future ROW properties at two districts disclosed that MoDOT has owned 6 of these properties from 20 to 40 years, and the other properties less than 15 years. District officials could not provide documentation that any of these future ROW properties had been evaluated for continued need. One of the 10 projects reviewed involves 140 acres in Dallas County, which MoDOT acquired in the 1960's. This property is to be used for an 11-mile by-pass near the city of Buffalo; however, district officials told us they have no planned construction date or funding for this project.

MoDOT officials told us they anticipate highway improvements will eventually occur on all future ROW property that has been acquired. MoDOT's formal planning process does not extend beyond five years; therefore, department officials cannot estimate when most future ROW property will be used in construction projects. While this does not mean these properties are not needed in the future, MoDOT does not have a procedure to periodically evaluate ROW properties held for an extended period of time to ensure a need still exists.

MoDOT could more actively market excess ROW property

Revenues related to the sale of excess ROW properties averaged \$1.1 million annually from July 1, 1999 to June 30, 2003, according to MoDOT records. However, MoDOT has identified about \$10 million in excess ROW property as of January 2004; and MoDOT officials told us sales of excess ROW property are typically initiated by private individuals interested in purchasing the properties, not MoDOT. These officials' comments were confirmed with the results of our review of excess ROW property disposals. We found at least half of the 26 property disposals reviewed had not been identified as excess or considered for disposal until a request to purchase the property had been received. While the remaining disposals involved excess properties which had been identified by MoDOT, at least 5 of those disposals were initiated by an interested buyer.

Missouri statutes⁷ permit MoDOT to dispose of property which is no longer needed. The California Department of Transportation is required by state law to offer to sell or exchange excess real property within one year from the date that it is determined by the department to be excess. A 1997 Arizona audit report disclosed that state's Department of Transportation had

⁶ These properties were included in the preliminary future ROW listings.

⁷ Section 227.290, RSMo 2000.

made significant efforts to identify and reduce its excess property inventory by selling 133 unneeded parcels totaling almost \$6 million. In addition, at the time of the audit, the Arizona Department of Transportation had identified an additional 366 excess ROW properties, with 96 of those parcels being appraised at an aggregate value of over \$3 million. As a result, the identification and marketing of excess ROW properties can provide substantial revenue while at the same time serve to dispose of properties no longer needed. We believe sound business practices dictate establishing procedures to effectively market unneeded ROW property.

According to MoDOT officials, MoDOT faces impediments in the disposal of some excess ROW property. For example, limitations occur when MoDOT owns only an easement, rather than fee simple ownership to many older properties; properties have limited access, with only one or a few potential buyers; properties have environmental problems that preclude selling; or properties have limited value. However, according to division and district officials, MoDOT has recognized a need to improve its property management. In response to recommendations from a recent peer review, MoDOT recently established focus groups to establish better property management procedures and determine how it might more actively market or dispose of excess property.

Conclusions

MoDOT does not have a comprehensive record of all ROW property. Therefore, it has had to estimate it owns \$1.9 billion in ROW property for financial reporting purposes. Although MoDOT has identified approximately \$10 million in excess ROW, MoDOT officials acknowledged, and we confirmed, its records are not complete. Additionally, in January 2004, district offices reported identifying 7,000 acres of ROW property purchased for future use on 130 projects. However, the preliminary data compiled does not include all future ROW property, nor does it include necessary information such as: the value of the property, the date it had been purchased, or the expected construction date. As a result, MoDOT does not have (1) a complete record of all ROW property it owns, (2) an accurate record of excess property on completed projects, or (3) a complete inventory of future ROW property. Without accurate and complete information on this property, MoDOT officials cannot accurately assess how much existing ROW property is needed or is not needed, and represents excess property.

MoDOT lacks adequate procedures in evaluating for unneeded, or excess, ROW properties. Existing practices call for an evaluation of this property when projects are completed. However, neither current policy nor district procedures clearly indicate when the evaluations should be conducted, provide instructions or guidelines in conducting the evaluations, or require the evaluations be documented. We believe sound business practices dictate that MoDOT require periodic evaluations of ROW property being held for use on future projects to determine the continued need to own this property and/or the likelihood of using it. Periodic evaluations would allow MoDOT officials more opportunities to dispose of property no longer needed for future use.

MoDOT could more actively market excess ROW property for disposal. It relies primarily on interested outside parties to initiate the sale or disposal process. Although the department faces some impediments, the department should be proactive in disposing of excess property. As a

result of this situation, MoDOT may not be maximizing the amount of revenue that could be generated by selling property the department no longer needs.

Any improvement in these areas will depend on the processes and procedures MoDOT adopts and how effectively they are implemented. Developing a comprehensive inventory system, which allows MoDOT to monitor property from the time it is purchased to the time it is ultimately used or unneeded, may require a substantial investment in time and effort depending on the approach used to develop the system. However, once developed and implemented, the system would improve MoDOT's ability to periodically evaluate the continued need of its ROW property and proactively market unneeded portions. The system benefits should outweigh any implementation costs allowing timely identification and sale of unneeded ROW property.

Recommendations

We recommend the Director of MoDOT:

1. Develop a comprehensive inventory system of all ROW property owned, including all excess and future property. To accomplish this, comprehensive policies and procedures to identify and classify all ROW property are needed.
2. Establish comprehensive procedures to evaluate ROW properties to determine unneeded, or excess, properties. Procedures should clearly indicate when the evaluations are to be conducted, provide instructions or guidelines in conducting the evaluations, and require the evaluations to be documented.
3. Require future ROW property to be evaluated on a periodic basis to determine whether the property is still needed for future projects.
4. More actively market excess ROW property no longer needed for current or future projects. Excess property should be analyzed to determine the feasibility and cost/benefits of selling the property.

Agency Comments

The Director, Right of Way Division, provided us the following comments in a letter dated April 2, 2004:

Thank you for the information provided in your interim report on MoDOT's excess and future right of way property. Quality assurance reviews are an integral part of what we do and this audit, along with a Baseline Assessment Peer Review led by the Federal Highway Administration and an internal focus group that looked at the same subject will all be valuable in helping us be more productive and responsible to Missouri's taxpayers. We are encouraged that some of your comments and recommendations support actions we are already working on as a result of the peer review and focus group. As a matter of fact, MoDOT's Director of Project Development and Right of Way Director made a presentation to the Missouri Highways and Transportation

Commission at the February 2004 meeting and the Commission supported MoDOT staff recommendations to:

- 1. Make property management a high priority;*
- 2. Establish a single point of coordination for property management;*
- 3. Proactively identify and market excess property;*
- 4. Develop an improved inventory database;*
- 5. Establish a new disposal process;*
- 6. Create unified procedures and educate our internal customers;*
- 7. Determine the most effective way to market excess property.*

Regarding your conclusion and the specific audit recommendations:

- 1. We agree a comprehensive inventory database is needed. Although it has been a proposed information systems technology budget item since 2000, it has now been funded. The kickoff meeting to begin defining needs is scheduled for April 7, 2004. We have right of way records by route and location that meet the requirements of GASB 34 and those records are updated annually. We use plans and deeds to identify specific parcels when that information is needed. We agree the inventory database should contain a detailed listing of excess parcels, future right of way and capital improvements.*
- 2. The right of way manual has written procedures to evaluate property at the end of acquisition and every effort needs to be taken to ensure the districts are following this process. Right of Way is working with our Strategic Planning unit to identify performance measures to ensure goals are met. We are also forming a team to incorporate the specifics suggested by the auditor into the property management section of our manual.*
- 3. The districts review their programs annually with their planning partners (e.g. metropolitan planning organizations and regional planning commissions) to determine what projects are added to the Statewide Transportation Improvement Plan. Any changes in projects that would impact future right of way are identified at that time. There is no need to examine individual parcels until the time of construction, as needs can change. In addition, land values often increase so that right of way not incorporated in the final project brings a higher price when disposed of after project completion. Finally, contractors can use any excess for staging, which helps keep construction costs down. The Right of Way division is currently completing a list of future right of way to assist the districts in their annual review.*
- 4. As your audit stated, we dispose of some 100 parcels per year, with associated revenues of over \$1 million annually. We have identified approximately \$10 million of excess right of way property. We feel this represents an active marketing process and we continue to look for any high dollar parcels for aggressive marketing. The Right of Way and General Services divisions work closely to make sure the high dollar capital improvement properties that are no longer needed are inventoried as excess and aggressively*

marketed. We are also looking at procedures to dispose of the smaller low dollar parcels in a manner that would minimize costs and be more cost effective.